

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PAUL HASHIM and U.S. CLAIMS	:	
SERVICES, INC. d/b/a PAYNE	:	
RICHARDS & ASSOCIATES	:	
3801 Pegasus Dr., Unit No. 101	:	CIVIL ACTION 2:20-CV-03812
Bakersfield, CA 93380,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
DOMINICK DeSIMONE and ANDREW	:	
AUSTIN, ESQUIRE,	:	
	:	
Defendants.	:	
	:	

MOTION FOR ENTRY OF STAY

Plaintiffs Paul Hashim (“Hashim”) and U.S. Claims Services, Inc. d/b/a Payne Richards & Associates (“Payne Richards”) (collectively “Plaintiffs”) respectfully move this Court pursuant to Rule 7(b) of the Federal Rules of Civil Procedure for entry of an order staying the proceedings until thirty (30) days after the United States Court of Appeals for the Third Circuit issues a ruling and following remittitur of the action filed by Dominick DeSimone in the related action of *Dominick DeSimone v. U.S. Claims Services, Inc., and Paul Hashim*, Third District Court of Appeal Case No.20-2133 (United States District Court Eastern District of Pennsylvania Case No. 2:19-cv-06150), back to this Court. The resources of the Court and the parties should be conserved pending the outcome of the appeal. In support, Plaintiffs state as follows:

1. On or about December 2, 2019, Dominick DeSimone and his attorney Andrew Austin (collectively, “Defendants”) caused to be filed a Complaint for Damages in the Court of Common Pleas, Philadelphia County (Case No. 191200218). Prior to filing said Complaint, Defendants sent a series of written demands which stated that unless Hashim and Payne Richards paid very large, arbitrary amounts of money to Defendants within short amounts of time, then Defendants would sue Hashim and Payne Richards in a nationwide class action lawsuit that would effectively put the Plaintiffs out of business.

2. On or about December 27, 2019, Plaintiffs filed a Declaratory Relief Action in the United States District Court Eastern District of Pennsylvania, captioned *U.S. Claim Services, Inc., dba Payne Richards & Associates v. Dominick DeSimone*, Case No. 2:19-cv-06149.

3. On or about December 27, 2019, Plaintiffs filed a Notice of Removal and Related Case.

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4. On or about January 3, 2020, Plaintiffs filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendants responded on January 17, 2020, and Plaintiffs timely replied; thereafter, Defendants filed a supplemental response.

5. On or about March 11, 2020, the court granted the Rule 12(b)(6) Motion to Dismiss providing Defendants with leave to amend provided they could show new facts to support their original claims for relief. Plaintiffs' counsel advised Defendant Andrew Austin that Hashim was extremely ill and requested that Hashim be dismissed without prejudice and that the case could continue against Payne Richards

6. On or about April 1, 2020, Defendants filed an Amended Complaint adding two additional counts of fraud specifically directed at Hashim.

7. Plaintiffs filed their second Rule 12(b)(6) Motion to Dismiss on or about April 15, 2020. Defendants timely filed their opposition, and Plaintiffs replied.

8. The Court granted the Plaintiffs' second Rule 12(b)(6) Motion to Dismiss on or about May 20, 2020, with prejudice, and dismissed the Plaintiffs' Declaratory Relief Action, which ended the case.

9. On or about June 5, 2020, Defendants filed a Notice of Appeal with the United States Court of Appeals for the Third Circuit captioned *Dominick DeSimone v. U.S. Claims Services, Inc., and Paul Hashim*, Case No. 20-2133.

10. On or about July 29, 2020, the Court of Appeals for the Third Circuit ordered the Appeal Action to mediation to be held on September 22, 2020, with mediation briefs due on or before August 31, 2020.

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11. On or about August 5, 2020, Plaintiffs filed the instant action which they request to stay pursuant to the Federal Rules of Civil Procedure, Rule 7(b) pending the outcome of the Defendants' Appeal and/or the court ordered mediation set for September 22, 2020.

12. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

13. A federal district court "has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997). "When deciding a motion to stay proceedings pending the resolution of another action in federal court, courts have considered three factors: '(1) the promotion of judicial economy; (2) the balance of harm to the parties; and (3) the duration of the requested stay.'" (*Richardson v. Verde Energy USA, Inc.*, No. 15-6325, 2016 WL 4478839, *2 (E.D. Pa. Aug. 25, 2016) (*quoting Cirulli v. Bausch & Lomb, Inc.*, No 08-4579, 2009 WL 545572 (E.D. Pa. Mar. 4, 2009))).

14. In this case, judicial economy counsels strongly in favor of staying this Court's proceedings pending the Third Circuit's resolution of Defendants' Appeal. Absent an order of this Court staying further proceedings the parties will be required to concurrently litigate this matter in both courts.

15. Such a concurrent litigation process would be duplicative and costly to all parties and would not facilitate "the just, speedy, and inexpensive determination of" these actions and proceedings. Fed. R. Civ. P. Rule 1.

16. Finally, the duration of the stay will not be lengthy and the stay will allow the parties to resolve questions that may be germane to this action as well such as any question as to

whether this action has become ripe. (*See D'Elia v. Folino*, 933 A.2d 117 (2007); *Ludmer v. Nernberg*, 553 A.2d 924 (1989).)

WHEREFORE, Plaintiffs respectfully request the Court to enter an order staying the proceedings until thirty (30) days following remittitur and after the Third Circuit issues a ruling resolving the appeal.

Respectfully submitted,

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/s/

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